

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON, Plaintiff, v. AMERISOURCEBERGEN DRUG CORPORATION, et al., Defendants.	Civil Action No. 3:17-01362 Hon. David A. Faber
CABELL COUNTY COMMISSION, Plaintiff, v. AMERISOURCEBERGEN DRUG CORPORATION, et al., Defendants.	Civil Action No. 3:17-01665 Hon David A. Faber

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT: STANDING

Defendants AmerisourceBergen Drug Corporation, McKesson Corporation, and Cardinal Health, Inc., by counsel, move pursuant to Federal Rule of Civil Procedure 56(a) for summary judgment on the nuisance claims alleged by Plaintiffs The City of Huntington and Cabell County Commission. The evidence before the Court discloses that there is no genuine dispute as to any material fact bearing on this motion, in that no per se nuisance has been shown and Defendants have violated no ordinance of general applicability. In the absence of a per se nuisance or of any predicate violation, Plaintiffs have no standing to sue for nuisance and Defendants are entitled to judgment as a matter of law.

WHEREFORE, Defendants respectfully request that the Court: (i) grant this motion; (2) issue a conforming Order directing the entry of summary judgment to Defendants on all of Plaintiffs' claims; and (3) accord Defendants such other and further relief as may be deemed just.

DATED: March 20, 2020

Respectfully submitted,
CARDINAL HEALTH, INC.

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CERTIFICATE OF SERVICE

I, Steven R. Ruby, counsel for Defendant Cardinal Health, do hereby certify that service of the foregoing **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT: STANDING** was filed electronically via the CM/ECF electronic filing system and served on all counsel registered in the system.

Dated: March 20, 2020

/s/ Steven R. Ruby

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